IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15466 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL JAGRUTIBEN MANHARLAL

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

1. Special Civil Application No. 15466 of 2004

MR FB BRAHMBHATT for Petitioner No. 1

..... for Respondent No. 1-2

MR MANISH J PATEL for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 08/12/2004

ORAL JUDGEMENT

RULE. With the consent of the parties, this matter is taken up for hearing today.

By filing this petition, the petitioner has prayed that the respondents may be directed to give site selection to the petitioner with immediate effect in respect of all the vacant places, which are available at the time of giving site selection to other candidates. It is further prayed that the petitioner may be given all other consequential benefits, which the petitioner could not get due to other candidates, who have approached this Court.

It is the say of the petitioner that even though the petitioner has participated in the Football game, the petitioner was selected in general merit list. It is submitted that since some of the petitions have been disposed of by which the certificates produced by the concerned petitioners are ordered to be taken into account, the petitioner is apprehending that she may go down in the merit list. It is, therefore, submitted that if the case of the petitioner is considered as a sports person, the petitioner can also get the benefit of relaxation as per Government Resolution dated 25-2-1980 and 1-8-1990 by treating the case of the petitioner as a sports person.

Learned AGP, after taking instruction from the Director of Primary Education states that claim of the petitioner shall be considered by giving benefit of Government Resolutions dated 25-2-1980 and 1-8-1990 by treating the case of the petitioner as a sports person. He submitted that the Director of Primary Education may be permitted to initiate appropriate inquiry to find out whether the certificate produced by the petitioner is genuine and whether the same is tampered with in any manner.

Considering the aforesaid submission of learned AGP and considering the fact that the petitioner has alredy produced certificate regarding participation in Football game, which is issued by Gujarat State Women's Football Association, it is directed that the claim of the petitioner for recruitment to the post of Vidya Sahayak in Sports Quota shall be considered in view of Government Resolution dated 25-2-1980 and 1-8-1990, after verification of the certificate produced at page 24. The Director of Primary Education can initiate appropriate inquiry to find out the genuineness of the certificate produced by the petitioner and appropriate decision may be taken in this regard within a period of one month from

today and, ultimately, if the Director is of the opinion that the petitioner is required to be appointed on the post of Vidya Sahayak, appropriate order may be passed in this behalf latest by 15th January, 2005. It will be open for the Director of Primary Education to assign such inquiry to the concerned District Primary Education Officer, who is the appointing authority. If it is found that the certificate produced by the petitioner is genuine, the petitioner may be given relaxation as per Government Resolution dated 25-2-1980 and 1-8-1990. It is clarified that if the certificate is found to be genuine, the petitioner may be given all the benefits to which the petitioner is entitled, treating the claim of the petitioner as if it would have been considered at the relevant time.

Whatever decision taken by the Director may be communicated to the petitioner.

Accordingly, this petition is allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

Direct service is permitted.

(P.B.Majmudar,J.)
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